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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/894,293	06/27/2001	Wouter E. Roorda	50623.00041 (2742)	5539

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EXAMINER

MICHENER, JENNIFER KOLB

ART UNIT	PAPER NUMBER
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1762

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DATE MAILED: 04/02/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

09/894,293

Applicant(s)

ROORDA, WOUTER

Examiner

Jennifer Kolb Michener

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--Th MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 13 March 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY** [check either a) or b)]

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
  - (b) ☐ they raise the issue of new matter (see Note below);
  - (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
  - (d) ☒ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: see attached.

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: see attached.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_.

Claim(s) objected to: \_\_\_\_\_.

Claim(s) rejected: 1, 2, 4, 5, 8-18, 20-22, 24-35.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

8. ☐ The proposed drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.
10. ☐ Other: \_\_\_\_\_.

### **ADVISORY ACTION**

1. The proposed amendments will not be entered because they raise new issues that would require further search and/or consideration. One example is the change of claim language from "stent" to "medical device", thus broadening the search.
2. The proposed amendments will not be entered because they do not simplify the application for appeal.
3. The proposed amendments will not be entered because they present new claims without canceling a corresponding number of finally rejected claims.

#### ***Claim Rejections - 35 USC § 102***

4. Claims 1, 2 and 35 are rejected under 35 U.S.C. 102(e) as being anticipated by Tseng et al. (US 6,364,903).

Examiner maintains the rejection.

#### ***Claim Rejections - 35 USC § 103***

5. Claims 5, 8-14, 22, 26-27, 29, 33, and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fan et al. (US 5,558,900).

Examiner maintains the rejection.

6. Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tseng.

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Tseng teaches that which is disclosed above, including preheating a stent prior to coating, but fails to teach the preheating temperature.

Examiner maintains the rejection.

7. Claims 8-10, 15-18, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fan in view of Zhong (US 6,156,373).

Examiner maintains the rejection.

8. Claim 21, 30, and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fan in view of Tseng et al.

Examiner maintains the rejection.

9. Claims 28 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fan in view of Whitbourne.

Examiner maintains the rejection.

10. Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tseng in view of Whitbourne.

Examiner maintains the rejection.

11. Claims 1, 2, 4, 24, and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Berg (US 5,464,650) in view of Pursley (US 6,030,371).

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Examiner maintains the rejection.

***Response to Arguments***

12. Applicant's arguments have been considered, but they are not persuasive.

Applicant argues that Tseng does not "maintain the temperature" of the preheated medical device.

Examiner notes that the claim does not require that the temperature of step a) be maintained, only that a temperature greater than ambient be maintained. For those reasons outlined in the previous office action, Examiner maintains that at some point during the application step, Tseng maintains a temperature above ambient, caused by the pre-heating and/or subsequent heating step.

Applicant argues that using the two-step coating method of Applicant is not obvious from the teachings of Fan, citing benefits of the two-step method, such as decreasing the number of coating defects.

Examiner directs Applicants to the previous two office actions outlining the obviousness of splitting one step into two. Furthermore, Fan teaches that the two-step method is inferior because it is less simple and more time consuming. Fan therefore teaches that it is known in the art to use a two-step method, with the consequent loss of some benefits obtained from his one-step method. It would have been obvious to one of ordinary skill in the art to use a two-step method, using the teachings of Fan, if the

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artisan were not as concerned with time and simplicity, as he was with, for example, coating uniformity or another benefit. It would have been obvious to an ordinary artisan to use the two-step method of Fan with the expectation of a loss of time and simplicity.

Applicant argues that Pursley does not teach pre-heating when using the polymer in solution, as evidenced by claim claim 8 teaching a further step of heating when the polymer is in powder form.

Examiner notes that Pursley was not read in terms of claims only.

In the abstract Pursley discusses application of "polymer material", sometimes applied to a pre-heated substrate. Claims 2 and 3 were used merely to provide a definition for "polymer material" to be either "powder form" or "in solution". The use of the term "polymer material" throughout Pursley is read to mean either in powder form or in solution, including when pre-heating is used. Pursley teaches the embodiment of Applicant even if such an embodiment is not found in the claims.

### ***Conclusion***


13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennifer Kolb Michener whose telephone number is 703-306-5462. The examiner can normally be reached on Monday through Thursday and alternate Fridays. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Shrive P. Beck can be reached on 703-308-2333. The fax phone numbers for the organization where this application or proceeding is assigned

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are 703-872-9310 for regular communications and 703-872-9311 for After Final communications. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.



Jennifer Kolb Michener  
March 28, 2003



**SHRIVE P. BECK**  
**SUPERVISORY PATENT EXAMINER**  
**TECHNOLOGY CENTER 1700**